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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,036	02/27/2002	James Bean	3561-131	3987
20575	7590	04/13/2006	EXAMINER	
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			JEAN GILLES, JUDE	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,036

Applicant(s)

BEAN, JAMES

Examiner

Jude J. Jean-Gilles

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6 is/are rejected.
7) ☒ Claim(s) 7-9 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO 1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/05/06
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

This Action is in regards to the Reply received on 01/13/2006.

Response to Amendment

1. This action is responsive to the application filed on 01/13/2006. Claim 1 has been amended. Claim 10-19 has been cancelled. Original claim 19, reciting the normalizing step" was objected to as being dependent on a rejected based claim. Claims 1-9 are pending. Claims 1-9 represent a method and apparatus for an "online web traffic sampling."

Response to Arguments

2. Applicant's arguments with respect to claims 1 has been carefully considered, but are not deemed fully persuasive. Examiner retracts on his position in the Office Action dated 11/16/2005 on the "normalizing step" of original claim 19, now appended to claim 1, to be in independent form. In light of new prior art of Shapira, this limitation of the claim 1 (i.e. the normalizing step) is not allowable. However, claims 7-9 have been objected to, and would be allowable if rewritten in independent form.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-6** are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al (Boyd), U.S. Patent No. 6,360,261 B1 in view of Barg et al (Barg), U.S. Pub. No 2002/0070953 A1, further in view of Shapira et al (Shapira), U.S. patent No. 6925,442 B1.

Regarding **claim 1**, Boyd teaches the invention substantially as claimed. Boyd discloses a method for tracking and reporting traffic activity on a web site (*fig. 1, items 9-19*), comprising:

storing a web page on a first server coupled to a network (*column 6, lines 29-37; fig. 3A, items 10-11*);

requesting the web page from a visitor computer (*column 6, lines 29-37; fig. 3A, items 10-11*);

selecting the visitor computer for inclusion or non-inclusion within a sample group, said sample group being a subset of total traffic to the web site (*column 6, lines 46-67; column 7, lines 1-21; fig. 5, items 40 A-D, items 41-43; note that the total number of hits is 500 hundred hits recorded so far in table 40A*

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and that the sampling group can be considered to be tale 42, keeping the new records' data);

tracking traffic activity to the web site from the visitor computer and/or visitor only if the visitor computer is a member within the sample group, otherwise ignoring the traffic activity from the visitor computer and/or visitor (*column 7, lines 1-21*). However, Boyd does not specifically disclose storing on the visitor computer, after the selecting step, a selection indicator associating with the inclusion or non-inclusion.

In the same field of endeavor, Brag teaches a method ("*..when a the first web page requested by a visitor is forwarded back to that visitor, tracking information, usually in the form of a cookie is transmitted with the requested first page. The cookie which resides on the visitor's client's machine transmits the tracking information back to the web site with the request...*") [see Brag, Par. 0090-0091].

Furthermore, Shapira, in the same field of endeavor teaches in detail the above limitations, stating among other things "The step of normalizing the traffic activity from the sample group to obtain normalized data reflecting approximate traffic activity from all visitor computers to the web site" see Shapira; column 25, lines 10-29; column 26, lines 15-26].

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Brag's teachings of a method and apparatus to store tracking and indications associated

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with the inclusion or non-inclusion if the visitor or its machine in a sample group, with the teachings of Boyd, for the purpose of "*providing a system and a method for efficiently analyzing traffic data reflecting access information on a web server operating in a distributed computing environment.*" as stated by Boyd in lines 16-20 of column 2.

By this rationale **claims 1** is rejected.

The method of claim is further including normalizing the traffic activity from the sample group to obtain normalized data reflecting approximate traffic activity from all visitor computers to the web site.

Regarding **claim 2**, the combination Boyd-Barg-Shapira teaches the method of claim 1, wherein the web page includes web page code, data mining code, and cookie processing script, the method further including the step of operating the cookie processing script on the visitor computer to generate the selection indicator [see *Barg, Par. 0087-0091*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 2 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 2** is rejected.

Regarding **claim 3**, the combination Boyd-Barg-Shapira teaches the method of claim 1, the method further including:

storing cookie processing script on a second server [see *Boyd, column 13-20; see Barg, fig. 1, item 12; note that the IIS servers of Barg*];

receiving a request from the visitor computer at the second server [see *Barg, Par. 0090-0091*];

operating the cookie processing script responsive to the request to generate the selection indicator [see *Barg, Par. 0090-0091*]; and

returning the selection indicator to the visitor computer for storage [see *Barg, Par. 0090-0092*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 3 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 3** is rejected.

Regarding **claim 4**, the combination Boyd-Barg-Shapira teaches the method of claim 1, wherein the first server includes cookie processing script, the method further including the steps of:

operating the cookie processing script responsive to the requesting step to generate the selection indicator [*Barg, Par. 0130-0131; 0090-0092*]; and

returning the selection indicator to the visitor computer for storage [*Barg, Par. 0130-0131; 0090-0092*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 4 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 4** is rejected.

Regarding **claim 5**, the combination Boyd-Barg-Shapira teaches the method of claim 4, further including the steps of:

embedding an image request within the web page [*Barg, Par. 0130-0132; 0090-0092*];

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causing the image request to be sent to a second server [*Barg, Par. 0135-0131; 0090-0092*];

returning an image responsive to the image request [*Barg, Par. 0135-0131; 0090-0092*]; and

setting the selection indicator responsive to the image [*Barg, Par. 0135-0131; 0090-0092*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 5 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 5** is rejected.

Regarding **claim 6**, the combination Boyd-Barg-Shapira teaches the method of claim 1, further including the steps of:

receiving an image at the visitor computer responsive to the web page request [*Barg, Par. 0135-0131; 0090-0092*]; and

setting the selection indicator to "true" at the visitor computer responsive to a first type of received image, otherwise setting the selection indicator to "false" responsive to a second type of image, wherein the image type is one selected from the group consisting of size or color [*Barg, Par. 0230-0235*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 6 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 6** is rejected.

Allowed claims

5. Claims 7-9 has been allowed:

7. The method of claim 6, wherein the selection indicator is set to "true" at the visitor computer responsive to the received image being 1.times.1 pixel in size, and wherein the selection indicator is set to "false" responsive to the received image being 1.times.2 pixels in size.

8. The method of claim 6, wherein the selection indicator is set to "true" responsive to the received image having a first color, and wherein the selection indicator is set to "false" responsive to received image having a second color.

9. The method of claim 1, further including the steps of: setting a normalization multiplier in accordance with a ratio between the sample group and the total traffic on the web site; normalizing the traffic activity by a normalization multiplier; and posting the report including the normalized traffic activity for viewing over the network.

Reason for allowance

6. The best prior art of record and any combination of Boyd-Barg-Shapira does not teach a method for tracking and reporting traffic activity on a web site with the step of setting a normalization multiplier in accordance with a ratio between the sample group and the total traffic on the web site; normalizing the traffic activity by a normalization multiplier; and posting the report including the normalized traffic activity for viewing over the network; and using selection indicator to respond to received images.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE NON-FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-9000.

Jude Jean-Gilles

Patent Examiner

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JJG



March 27, 2006



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